

AMENDMENT NO. _____ Ex. _____ Calendar No. _____

Purpose: To provide a complete substitute

IN THE SENATE OF THE UNITED STATES

106th Cong., 2nd Session

S.

H.R. 2884, To extend energy conservation programs under the Energy Policy and
Conservation Act through fiscal year 2003

() Referred to the Committee on _____

and ordered to be printed

() Ordered to lie on the table and to be printed

Intended to be proposed by Mr. Murkowski and Mr. Bingaman.

Viz:

1 Strike all after the enacting clause and insert in lieu thereof the following:

2 **SEC. 1. SHORT TITLE.**

3 This Act may be cited as the Energy Act of 2000.

4

5

TITLE I

6

STRATEGIC PETROLEUM RESERVE

7

1 **SEC. 101. SHORT TITLE**

2 This title may be cited as the "Energy Policy and Conservation Act Amendments of 2000".

3 **SECTION. 102.**

4 Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended--

5 (a) in paragraph (1) by striking "standby" and ", subject to congressional review, to
6 impose rationing, to reduce demand for energy through the implementation of energy
7 conservation plans, and"; and

8 (b) by striking paragraphs (3) and (6).

9 **SECTION. 103.**

10 Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211-6251) is amended--

11 (a) by striking section 102 (42 U.S.C. 6211) and its heading;

12 (b) by striking section 104(b)(1);

13 (c) by striking section 106 (42 U.S.C. 6214) and its heading;

14 (d) by amending section 151(b) (42 U.S.C. 6231) to read as follows:

15 "(b) It is the policy of the United States to provide for the creation of a Strategic
16 Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products
17 to reduce the impact of disruptions in supplies of petroleum products, to carry out
18 obligations of the United States under the international energy program, and for
19 other purposes as provided for in this Act.";

20 (e) in section 152 (42 U.S.C. 6232)--

21 (1) by striking paragraphs (1), (3) and (7), and

22 (2) in paragraph (11) by striking " ;such term includes the Industrial Petroleum

1 Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve".

2 (f) by striking section 153 (42 U.S.C. 6233) and its heading;

3 (g) in section 154 (42 U.S.C. 6234)--

4 (1) by amending subsection (a) to read as follows:

5 "(a) A Strategic Petroleum Reserve for the storage of up to 1 billion

6 barrels of petroleum products shall be created pursuant to this part.";

7 (2) by amending subsection (b) to read as follows:

8 "(b) The Secretary, in accordance with this part, shall exercise authority

9 over the development, operation, and maintenance of the Reserve."; and

10 (3) by striking subsections (c), (d), and (e);

11 (h) by striking section 155 (42 U.S.C. 6235) and its heading;

12 (i) by striking section 156 (42 U.S.C. 6236) and its heading;

13 (j) by striking section 157 (42 U.S.C. 6237) and its heading;

14 (k) by striking section 158 (42 U.S.C. 6238) and its heading;

15 (l) by amending the heading for section 159 (42 U.S.C. 6239) to read, "Development,

16 Operation, and Maintenance of the Reserve";

17 (m) in section 159 (42 U.S.C. 6239)--

18 (1) by striking subsections (a), (b), (c), (d), and (e);

19 (2) by amending subsection (f) to read as follows:

20 "(f) In order to develop, operate, or maintain the Strategic Petroleum

21 Reserve, the Secretary may:

22 "(1) issue rules, regulations, or orders;

1 "(2) acquire by purchase, condemnation, or otherwise, land or
2 interests in land for the location of storage and related facilities;

3 "(3) construct, purchase, lease, or otherwise acquire storage and
4 related facilities;

5 "(4) use, lease, maintain, sell or otherwise dispose of land or
6 interests in land, or of storage and related facilities acquired under this
7 part, under such terms and conditions as the Secretary considers necessary
8 or appropriate;

9 "(5) acquire, subject to the provisions of section 160, by purchase,
10 exchange, or otherwise, petroleum products for storage in the Strategic
11 Petroleum Reserve;

12 "(6) store petroleum products in storage facilities owned and
13 controlled by the United States or in storage facilities owned by others if
14 those facilities are subject to audit by the United States;

15 "(7) execute any contracts necessary to develop, operate, or
16 maintain the Strategic Petroleum Reserve;

17 "(8) bring an action, when the Secretary considers it necessary, in
18 any court having jurisdiction over the proceedings, to acquire by
19 condemnation any real or personal property, including facilities, temporary
20 use of facilities, or other interests in land, together with any personal
21 property located on or used with the land.”; and

22 (3) in subsection (g)--

1 (A) by striking "implementation" and inserting "development"; and

2 (B) by striking "Plan";

3 (4) by striking subsections (h) and (i);

4 (5) by amending subsection (j) to read as follows:

5 "(j) If the Secretary determines expansion beyond 700,000,000 barrels of
6 petroleum product inventory is appropriate, the Secretary shall submit a plan for
7 expansion to the Congress."; and

8 (6) by amending subsection (l) to read as follows:

9 "(l) During a drawdown and sale of Strategic Petroleum Reserve
10 petroleum products, the Secretary may issue implementing rules, regulations, or
11 orders in accordance with section 553 of title 5, United States Code, without
12 regard to rulemaking requirements in section 523 of this Act, and section 501 of
13 the Department of Energy Organization Act (42 U.S.C. 7191).";

14 (n) in section 160 (42 U.S.C. 6240)--

15 (1) in subsection (a), by striking all before the dash and inserting the following--

16 "(a) The Secretary may acquire, place in storage, transport, or exchange";

17 (2) in subsection (a)(1) by striking all after "Federal lands";

18 (3) in subsection (b), by striking ", including the Early Storage
19 Reserve and the Regional Petroleum Reserve" and by striking paragraph

20 (2); and

21 (4) by striking subsections (c), (d), (e), and (g);

22 (o) in section 161 (42 U.S.C. 6241)--

1 (1) by striking "Distribution of the Reserve" in the title of this section and
2 inserting "Sale of Petroleum Products";

3 (2) in subsection (a), by striking "drawdown and distribute" and inserting "draw
4 down and sell petroleum products in";

5 (3) by striking subsections (b), (c), and (f);

6 (4) by amending subsection (d)(1) to read as follows:

7 "(d)(1) Drawdown and sale of petroleum products from the Strategic
8 Petroleum Reserve may not be made unless the President has found drawdown
9 and sale are required by a severe energy supply interruption or by obligations of
10 the United States under the international energy program.";

11 (5) by amending subsection (e) to read as follows:

12 "(e)(1) The Secretary shall sell petroleum products withdrawn from the
13 Strategic Petroleum Reserve at public sale to the highest qualified bidder in the
14 amounts, for the period, and after a notice of sale considered appropriate by the
15 Secretary, and without regard to Federal, State, or local regulations controlling
16 sales of petroleum products.

17 "(2) The Secretary may cancel in whole or in part any offer to sell
18 petroleum products as part of any drawdown and sale under this Section."; and

19 (6) in subsection (g)--

20 (A) by amending paragraph (1) to read as follows:

21 "(g)(1) The Secretary shall conduct a continuing evaluation of the
22 drawdown and sales procedures. In the conduct of an evaluation, the Secretary is

1 authorized to carry out a test drawdown and sale or exchange of petroleum
2 products from the Reserve. Such a test drawdown and sale or exchange may not
3 exceed 5,000,000 barrels of petroleum products.”;

4 (B) by striking paragraphs (2);

5 (C) in paragraph (4), by striking "90" and inserting "95";

6 (D) in paragraph (5), by striking “drawdown and distribution” and
7 inserting “test”;

8 (E) by amending paragraph (6) to read as follows:

9 "(6) In the case of a sale of any petroleum products under
10 this subsection, the Secretary shall, to the extent funds are
11 available in the SPR Petroleum Account as a result of such
12 sale, acquire petroleum products for the Reserve within the
13 12-month period beginning after completion of the sale.”;

14 and

15 (F) in paragraph (8), by striking “ drawdown and distribution” and
16 inserting “test”;

17 (7) in subsection (h)--

18 (A) in paragraph (1) by striking “distribute” and inserting “sell
19 petroleum products from”;

20 (B) by deleting "and" at the end of paragraph (1)(A) and by
21 deleting "shortage," at the end of paragraph (1) (B) and inserting
22 "shortage; and

1 "(C) the Secretary of Defense has found that action taken under this
2 subsection will not impair national security,";

3 (C) in paragraph (2) by striking "In no case may the Reserve" and
4 inserting "Petroleum products from the Reserve may not"; and

5 (D) in paragraph (3) by striking "distribution" each time it appears
6 and inserting "sale";

7 (p) by striking section 164 (42 U.S.C. 6244) and its heading;

8 (q) by amending section 165 (42 U.S.C. 6245) and its heading to read as
9 follows—

10 "Annual Report

11 "Sec. 165. The Secretary shall report annually to
12 the President and the Congress on actions taken to
13 implement this part. This report shall include--

14 "(1) the status of the physical capacity of the
15 Reserve and the type and quantity of petroleum products in the
16 Reserve;

17 "(2) an estimate of the schedule and cost to
18 complete planned equipment upgrade or capital investment
19 in the Reserve, including upgrades and investments carried
20 out as part of operational maintenance or extension of life

1 activities;

2 "(3) an identification of any life-limiting conditions
3 or operational problems at any Reserve facility, and
4 proposed remedial actions including an estimate of the
5 schedule and cost of implementing those remedial actions;

6 "(4) a description of current withdrawal and
7 distribution rates and capabilities, and an identification of
8 any operational or other limitations on those rates and
9 capabilities;

10 "(5) a listing of petroleum product acquisitions
11 made in the preceding year and planned in the following
12 year, including quantity, price, and type of petroleum;

13 "(6) a summary of the actions taken to develop,
14 operate, and maintain the Reserve;

15 "(7) a summary of the financial status and financial
16 transactions of the Strategic Petroleum Reserve and
17 Strategic Petroleum Reserve Petroleum Accounts for the
18 year.

19 "(8) a summary of expenses for the year, and the
20 number of Federal and contractor employees;

21 "(9) the status of contracts for development,

1 operation, maintenance, distribution, and other activities
2 related to the implementation of this part;

3 “(10) a summary of foreign oil storage agreements
4 and their implementation status;

5 “(11) any recommendations for supplemental
6 legislation or policy or operational changes the Secretary
7 considers necessary or appropriate to implement this part.”;

8 (r) in section 166 (42 U.S.C. 6246) by striking “for fiscal year 1997.”;

9 (s) in section 167 (42 U.S.C. 6247)--

10 (1) in subsection (b)--

11 (A) by striking "and the drawdown" and
12 inserting "for test sales of petroleum products from
13 the Reserve, and for the drawdown, sale,";

14 (B) by striking paragraph (1); and

15 (C) in paragraph (2), by striking "after fiscal
16 year 1982"; and

17 (2) by striking subsection (e);

18 (t) in section 171 (42 U.S.C. 6249) --

19 (1) by amending subsection (b)(2)(B) to read as
20 follows:

1 "(B) the Secretary notifies each House of the Congress of
2 the determination and identifies in the notification the location,
3 type, and ownership of storage and related facilities proposed to be
4 included, or the volume, type, and ownership of petroleum
5 products proposed to be stored, in the Reserve, and an estimate of
6 the proposed benefits.";

7 (2) in subsection (b)(3), by striking "distribution of"
8 and inserting "sale of petroleum products from ";

9 (u) in section 172 (42 U.S.C. 6249a), by striking subsections (a) and (b);

10 (v) by striking section 173 (42 U.S.C. 6249b) and its heading; and

11 (w) in section 181 (42 U.S.C. 6251), by striking "March 31, 2000" each
12 time it appears and inserting "September 30, 2003".

13 **SECTION. 104.**

14 Title II of the Energy Policy and Conservation Act (42 U.S.C. 6211-6251) is
15 amended--

16 (a) by striking Part A (42 U.S.C. 6261 through 6264) and its heading;

17 (b) by adding at the end of section 256(h), "There are authorized to be
18 appropriated for fiscal years 2000 through 2003, such sums as may be
19 necessary."

20 (c) by striking Part C (42 U.S.C. 6281 through 6282) and its heading; and

1 (d) in section 281 (42 U.S.C. 6285), by striking "March 31, 2000" each
2 time it appears and inserting "September 30, 2003".
3

4 **SEC. 105. CLERICAL AMENDMENTS.**

5 The Table of Contents for the Energy Policy and Conservation Act is
6 amended—

7 (a) by striking the items relating to sections 102, 106, 153, 155, 156, 157,
8 158, and 164;

9 (b) by amending the item relating to section 159 to read as follows:

10 "Development, Operation, and Maintenance of the Reserve.";

11 (c) by amending the item relating to section 161 to read as follows:

12 "Drawdown and Sale of Petroleum Products"; and

13 (d) by amending the item relating to section 165 to read as follows:

14 "Annual Report".
15

16 **TITLE II**

17 **HEATING OIL RESERVE**
18

1 **SEC. 201. NORTHEAST HOME HEATING OIL RESERVE.**

2 (a) Title I of the Energy Policy and Conservation Act is amended by--

3 (1) redesignating part D as part E;

4 (2) redesignating section 181 as section 191; and

5 (3) inserting after part C the following new part D:

6 **"Part D--Northeast Home Heating Oil Reserve**

7 **"ESTABLISHMENT**

8 "SEC. 181. (a) Notwithstanding any other provision of this Act, the Secretary may establish,
9 maintain, and operate in the Northeast a Northeast Home Heating Oil Reserve. A Reserve
10 established under this part is not a component of the Strategic Petroleum Reserve established
11 under part B of this title. A Reserve established under this part shall contain no more than 2
12 million barrels of petroleum distillate.

13 "(b) For the purposes of this part--

14 "(1) the term 'Northeast' means the States of Maine, New Hampshire, Vermont,
15 Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey;

16
17 "(2) the term 'petroleum distillate' includes heating oil and diesel fuel; and

18 "(3) the term 'Reserve' means the Northeast Home Heating Oil Reserve established

1 under this part.

2 **"AUTHORITY**

3 "SEC. 182. To the extent necessary or appropriate to carry out this part, the Secretary may--

4 "(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage
5 and related facilities, and storage services;

6 "(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities
7 acquired under this part;

8 "(3) acquire by purchase, exchange (including exchange of petroleum product from
9 the Strategic Petroleum Reserve or received as royalty from Federal lands), lease, or
10 otherwise, petroleum distillate for storage in the Northeast Home Heating Oil
11 Reserve;

12 "(4) store petroleum distillate in facilities not owned by the United States; and

13 "(5) sell, exchange, or otherwise dispose of petroleum distillate from the Reserve
14 established under this part, including to maintain the quality or quantity of the
15 petroleum distillate in the Reserve or to maintain the operational capability of the
16 Reserve.

17 **"CONDITIONS FOR RELEASE; PLAN**

18 "SEC. 183. (a) FINDING. -- The Secretary may sell product from the Reserve only upon a
19 finding by the President that there is a severe energy supply interruption. Such a finding may

1 be made only if he determines that --

2 "(1) a dislocation in the heating oil market has resulted from such interruption; or

3 "(2) a circumstance, other than that described in paragraph (1), exists that constitutes
4 a regional supply shortage of significant scope and duration and that action taken
5 under this section would assist directly and significantly in reducing the adverse
6 impact of such shortage.

7 '(b) DEFINITION. -- For purposes of this section a "dislocation in the heating oil market" shall
8 be deemed to occur only when --

9 '(1) The price differential between crude oil, as reflected in an industry daily
10 publication such as "Platt's Oilgram Price Report" or Oil Daily" and No. 2
11 heating oil, as reported in the Energy Information Administration's retail price
12 data for the Northeast, increases by more than 60% over its five year rolling
13 average for the months of mid-October through March, and continues for 7
14 consecutive days; and

15 '(2) The price differential continues to increase during the most recent week for
16 which price information is available.

17 "(c) The Secretary shall conduct a continuing evaluation of the residential price data supplied by
18 the Energy Information Administration for the Northeast and data on crude oil prices from
19 published sources.

20 "(d) After consultation with the heating oil industry, the Secretary shall determine procedures
21 governing the release of petroleum distillate from the Reserve. The procedures shall provide

1 that:

2 "1) The Secretary may -

3 "(A) sell petroleum distillate from the Reserve through a competitive process, or

4 "(B) enter into exchange agreements for the petroleum distillate that results in the

5 Secretary receiving a greater volume of petroleum distillate as repayment than the

6 volume provided to the acquirer;

7 "2) In all such sales or exchanges, the Secretary shall receive revenue or its equivalent in
8 petroleum distillate that provides the Department with fair market value. At no time may the oil
9 be sold or exchanged resulting in a loss of revenue or value to the United States; and

10 "3) The Secretary shall only sell or dispose of the oil in the Reserve to entities
11 customarily engaged in the sale and distribution of petroleum distillate.

12 "(e) Within 45 days of the date of the enactment of this section, the Secretary shall transmit to the
13 President and, if the President approves, to the Congress a plan describing--

14 "(1) the acquisition of storage and related facilities or storage services for the Reserve,
15 including the potential use of storage facilities not currently in use;

16 "(2) the acquisition of petroleum distillate for storage in the Reserve;

17 "(3) the anticipated methods of disposition of petroleum distillate from the Reserve;

18 "(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

19 "(5) efforts the Department will take to minimize any potential need for future

20 drawdowns and ensure that distributors and importers are not discouraged from

1 maintaining and increasing supplies to the Northeast; and

2 "(6) actions to ensure quality of the petroleum distillate in the Reserve.

3
4 **"NORTHEAST HOME HEATING OIL RESERVE ACCOUNT**

5 "SEC. 184. (a) Upon a decision of the Secretary of Energy to establish a Reserve under this
6 part, the Secretary of the Treasury shall establish in the Treasury of the United States an
7 account know as the 'Northeast Home Heating Oil Reserve Account' (referred to in this
8 section as the 'Account').

9 "(b) The Secretary of the Treasury shall deposit in the Account any amounts appropriated to
10 the Account and any receipts from the sale, exchange, or other disposition of petroleum
11 distillate from the Reserve.

12 "(c) The Secretary of Energy may obligate amounts in the Account to carry out activities
13 under this part without the need for further appropriation, and amounts available to the
14 Secretary of Energy for obligation under this section shall remain available without fiscal
15 year limitation.

16 **"EXEMPTIONS**

17 "SEC. 185. An action taken under this part is not subject to the rulemaking requirements of
18 section 523 of this Act, section 501 of the Department of Energy Organization Act, or section
19 553 of title 5, United States Code.'.

1 **"AUTHORIZATION OF APPROPRIATIONS**

2 "SEC. 186. There are authorized to be appropriated for fiscal years 2001, 2002, and 2003
3 such such sums as may be necessary to implement this part."

4
5 **SEC. 202. USE OF ENERGY FUTURES FOR FUEL PURCHASES.**

6 (a) HEATING OIL STUDY - The secretary shall conduct a study on -

7 (1) the use of energy futures and options contracts to provide cost-effective
8 protection from sudden surges in the price of heating oil (including number two
9 fuel oil, propane, and kerosine) for state and local government agencies, consumer
10 cooperatives, and other organizations that purchase heating oil in bulk to market
11 to end use consumers in the Northeast (as defined in section 201); and

12 (2) how to most effectively inform organizations identified in paragraph (1) about
13 the benefits and risks of using energy futures and options contracts.

14 (b) REPORT - The Secretary shall transmit the study required in this section to the
15 Committee on Commerce of the House of Representatives and the Committee on Energy and
16 Natural Resources of the Senate not later than 180 days after the enactment of this section.
17 The report shall contain a review of prior studies conducted on the subjects described in
18 subsection (a).

19
20 **TITLE III**

1 **MARGINAL WELL PURCHASES**

2

3 **SEC. 301. PURCHASE OF OIL FROM MARGINAL WELLS.**

4 (a) PURCHASE OF OIL FROM MARGINAL WELLS- Part B of Title I of the Energy Policy
5 and Conservation Act (42 U.S.C. 6232 et seq.) is amended by adding the following new
6 section after section 168:

7 **"PURCHASE OF OIL FROM MARGINAL WELLS**

8 "SEC. 169. (a) IN GENERAL- From amounts authorized under section 166, in any case in
9 which the price of oil decreases to an amount less than \$15.00 per barrel (an amount equal to
10 the annual average well head price per barrel for all domestic crude oil), adjusted for
11 inflation, the Secretary may purchase oil from a marginal well at \$15.00 per barrel, adjusted
12 for inflation.

13 "(b) DEFINITION OF MARGINAL WELL- The term 'marginal well' has the same meaning
14 as the definition of 'stripper well property' in section 613A(c)(6)(E) of the Internal Revenue
15 Code (26 U.S.C. 613A(c)(6)(E)).".

16 (b) CONFORMING AMENDMENT- The table of contents for the Energy Policy and
17 Conservation Act is amended by inserting after the item relating to section 168 the following:

18 "Sec. 169. Purchase of oil from marginal wells.'.

1
2 **TITLE IV**

3 **FEDERAL ENERGY MANAGEMENT**

4 **SEC. 401. FEMP.** -- Section 801 of the National Energy Conservation Policy Act (42 U.S.C.
5 8287(a)(2)(D)(iii) is amended by striking "\$750,000" and inserting "\$10,000,000".
6

7 **TITLE V**

8 **ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS**
9

10 **SEC. 501. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC**
11 **PROJECTS.**

12 Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the
13 following:

14 **SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC**
15 **PROJECTS.**

16 (a) DISCONTINUANCE OF REGULATION BY THE COMMISSION- Notwithstanding
17 sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory
18 authority under this Part over qualifying project works in the State of Alaska, effective on the
19 date on which the Commission certifies that the State of Alaska has in place a regulatory
20 program for water-power development that--

21 (1) protects the public interest, the purposes listed in paragraph (2), and the

1 environment to the same extent provided by licensing and regulation by the
2 Commission under this Part and other applicable Federal laws, including the
3 Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife
4 Coordination Act (16 U.S.C. 661 et seq.);

5 `(2) gives equal consideration to the purposes of--

6 `(A) energy conservation;

7 `(B) the protection, mitigation of damage to, and enhancement of, fish and
8 wildlife (including related spawning grounds and habitat);

9 `(C) the protection of recreational opportunities,

10 `(D) the preservation of other aspects of environmental quality,

11 `(E) the interests of Alaska Natives, and

12 `(F) other beneficial public uses, including irrigation, flood control, water
13 supply, and navigation; and

14 `(3) requires, as a condition of a license for any project works--

15 `(A) the construction, maintenance, and operation by a licensee at its own
16 expense of such lights and signals as may be directed by the Secretary of the
17 Department in which the Coast Guard is operating, and such fishways as may
18 be prescribed by the Secretary of the Interior or the Secretary of Commerce, as
19 appropriate;

1 ` (B) the operation of any navigation facilities which may be constructed as
2 part of any project to be controlled at all times by such reasonable rules and
3 regulations as may be made by the Secretary of the Army; and

4 ` (C) conditions for the protection, mitigation, and enhancement of fish and
5 wildlife based on recommendations received pursuant to the Fish and Wildlife
6 Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries
7 Service, the United States Fish and Wildlife Service, and State fish and
8 wildlife agencies.

9 ` (b) DEFINITION OF 'QUALIFYING PROJECT WORKS'- For purposes of this section, the
10 term 'qualifying project works' means project works--

11 ` (1) that are not part of a project licensed under this Part or exempted from licensing
12 under this Part or section 405 of the Public Utility Regulatory Policies Act of 1978
13 prior to the date of enactment of this section;

14 ` (2) for which a preliminary permit, a license application, or an application for an
15 exemption from licensing has not been accepted for filing by the Commission prior to
16 the date of enactment of subsection (c) (unless such application is withdrawn at the
17 election of the applicant);

18 ` (3) that are part of a project that has a power production capacity of 5,000 kilowatts
19 or less;

20 ` (4) that are located entirely within the boundaries of the State of Alaska; and

1 ` (5) that are not located in whole or in part on any Indian reservation, a conservation
2 system unit (as defined in section 102(4) of the Alaska National Interest Lands
3 Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for
4 addition to the Wild and Scenic Rivers System.

5 ` (c) ELECTION OF STATE LICENSING- In the case of nonqualifying project works that
6 would be a qualifying project works but for the fact that the project has been licensed (or
7 exempted from licensing) by the Commission prior to the enactment of this section, the
8 licensee of such project may in its discretion elect to make the project subject to licensing and
9 regulation by the State of Alaska under this section.

10 ` (d) PROJECT WORKS ON FEDERAL LANDS- With respect to projects located in whole
11 or in part on a reservation, a conservation system unit, or the public lands, a State license or
12 exemption from licensing shall be subject to--

13 ` (1) the approval of the Secretary having jurisdiction over such lands; and

14 ` (2) such conditions as the Secretary may prescribe.

15 ` (e) CONSULTATION WITH AFFECTED AGENCIES- The Commission shall consult with
16 the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce
17 before certifying the State of Alaska's regulatory program.

18 ` (f) APPLICATION OF FEDERAL LAWS- Nothing in this section shall preempt the
19 application of Federal environmental, natural resources, or cultural resources protection laws
20 according to their terms.

1 (g) OVERSIGHT BY THE COMMISSION- The State of Alaska shall notify the
2 Commission not later than 30 days after making any significant modification to its regulatory
3 program. The Commission shall periodically review the State's program to ensure compliance
4 with the provisions of this section.

5 (h) RESUMPTION OF COMMISSION AUTHORITY- Notwithstanding subsection (a), the
6 Commission shall reassert its licensing and regulatory authority under this Part if the
7 Commission finds that the State of Alaska has not complied with one or more of the
8 requirements of this section.

9 (i) Determination by the Commission-

10 (1) Upon application by the Governor of the State of Alaska, the Commission shall
11 within 30 days commence a review of the State of Alaska's regulatory program for
12 water-power development to determine whether it complies with the requirements of
13 subsection (a).

14 (2) The Commission's review required by paragraph (1) shall be completed within
15 one year of initiation, and the Commission shall within 30 days thereafter issue a final
16 order determining whether or not the State of Alaska's regulatory program for water-
17 power development complies with the requirements of subsection (a).

18 (3) If the Commission fails to issue a final order in accordance with paragraph (2),
19 the State of Alaska's regulatory program for water-power development shall be
20 deemed to be in compliance with subsection (a).'

1
2 **TITLE VI**

3
4 **WEATHERIZATION, SUMMER FILL, HYDROELECTRIC LICENSING**
5 **PROCEDURES, AND INVENTORY OF OIL AND GAS RESERVES**
6

7 **SEC. 601. CHANGES IN WEATHERIZATION PROGRAM TO PROTECT LOW-**
8 **INCOME PERSONS.**

9 (a) The matter under the heading 'ENERGY CONSERVATION (INCLUDING TRANSFER
10 OF FUNDS)' in title II of the Department of the Interior and Related Agencies
11 Appropriations Act, 2000 (113 Stat. 1535, 1501A-180), is amended by striking 'grants:' and
12 all that follows and inserting 'grants.'.

13 (b) Section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865) is
14 amended--

15 (1) in subsection (a)(1) by striking the first sentence;

16 (2) in subsection (a)(2) by--

17 (A) striking '(A)',

18 (B) striking 'approve a State's application to waive the 40 percent requirement
19 established in paragraph (1) if the State includes in its plan' and inserting
20 'establish', and

1 (C) striking subparagraph (B);

2 (3) in subsection (c)(1) by--

3 (A) striking `paragraphs (3) and (4)' and inserting `paragraph (3)',

4 (B) striking `\$1600' and inserting `\$2500',

5 (C) striking `and' at the end of subparagraph (C),

6 (D) striking the period and inserting `, and' in subparagraph (D), and

7 (E) inserting after subparagraph (D) the following new subparagraph:

8 `(E) the cost of making heating and cooling modifications, including
9 replacement';

10 (4) in subsection (c)(3) by--

11 (A) striking `1991, the \$1600 per dwelling unit limitation' and inserting `2000,
12 the \$2500 per dwelling unit average',

13 (B) striking `limitation' and inserting `average' each time it appears, and

14 (C) inserting `the' after `beginning of' in subparagraph (B); and

15 (5) by striking subsection (c)(4).

1 **SEC. 602. SUMMER FILL AND FUEL BUDGETING PROGRAMS.**

2 (a) Part C of title II of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is
3 amended by adding at the end the following:

4 **SEC. 273. SUMMER FILL AND FUEL BUDGETING PROGRAMS.**

5 “(a) DEFINITIONS- In this section:

6 “(1) BUDGET CONTRACT- The term ‘budget contract’ means a contract between a
7 retailer and a consumer under which the heating expenses of the consumer are spread
8 evenly over a period of months.

9 “(2) FIXED-PRICE CONTRACT- The term ‘fixed-price contract’ means a contract
10 between a retailer and a consumer under which the retailer charges the consumer a set
11 price for propane, kerosene, or heating oil without regard to market price fluctuations.

12 “(3) PRICE CAP CONTRACT- The term ‘price cap contract’ means a contract
13 between a retailer and a consumer under which the retailer charges the consumer the
14 market price for propane, kerosene, or heating oil, but the cost of the propane,
15 kerosene, or heating oil may not exceed a maximum amount stated in the contract.

16 “(b) ASSISTANCE- At the request of the chief executive officer of a State, the Secretary
17 shall provide information, technical assistance, and funding--

18 “(1) to develop education and outreach programs to encourage consumers to fill their
19 storage facilities for propane, kerosene, and heating oil during the summer months;

1 and

2 '(2) to promote the use of budget contracts, price cap contracts, fixed-price contracts,
3 and other advantageous financial arrangements;

4 to avoid severe seasonal price increases for and supply shortages of those products.

5 '(c) PREFERENCE- In implementing this section, the Secretary shall give preference to
6 States that contribute public funds or leverage private funds to develop State summer fill and
7 fuel budgeting programs.

8 '(d) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to
9 carry out this section--

10 '(1) \$25,000,000 for fiscal year 2001; and

11 '(2) such sums as are necessary for each fiscal year thereafter.

12 '(e) INAPPLICABILITY OF EXPIRATION PROVISION- Section 281 does not apply to this
13 section.'

14 (b) The table of contents in the first section of the Energy Policy and Conservation Act (42
15 U.S.C. prec. 6201) is amended by inserting after the item relating to section 272 the
16 following:

17 'Sec. 273. Summer fill and fuel budgeting programs.'

1 **SEC. 603. EXPEDITED FERC HYDROELECTRIC LICENSING PROCEDURES.**

2 The Federal Energy Regulatory Commission shall, in consultation with other appropriate
3 agencies, immediately undertake a comprehensive review of policies, procedures and
4 regulations for the licensing of hydroelectric projects to determine how to reduce the cost and
5 time of obtaining a license. The Commission shall report its findings within six months of the
6 date of enactment to the Congress, including any recommendations for legislative changes.

7
8 **SEC. 604. SCIENTIFIC INVENTORY OF OIL AND GAS RESERVES.**

9 (a) IN GENERAL – The Secretary of the Interior, in consultation with the Secretaries of
10 Agriculture and Energy, shall conduct an inventory of all onshore federal lands. The
11 inventory shall identify:

12 (1) The United States Geological Survey reserve estimates of the oil and gas
13 resources underlying these lands, and;

14 (2) The extent and nature of any restrictions or impediments to the development
15 of such resources.

16 (b) Once completed, the USGS reserve estimates and the surface availability data as
17 provided in (a)(2) shall be regularly updated and made publically available.

18 (c) The inventory shall be provided to the Committee on Resources of the House of
19 representatives and to the Committee on Energy and Natural Resources of the Senate
20 within two years after the date of enactment of this section.

(d) There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 605. ANNUAL HOME HEATING READINESS REPORTS.

(a) IN GENERAL- Part A of title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

"SEC. 108. ANNUAL HOME HEATING READINESS REPORTS.

"(a) IN GENERAL- On or before September 1 of each year, Secretary, acting through the Administrator of the Energy Information Agency, shall submit to Congress a Home Heating Readiness Report on the readiness of the natural gas, heating oil and propane industries to supply fuel under various weather conditions, including rapid decreases in temperature.

"(b) CONTENTS- The Home Heating Readiness Report shall include--

"(1) estimates of the consumption, expenditures, and average price per gallon of heating oil and propane and thousand cubic feet of natural gas for the upcoming period of October through March for various weather conditions, with special attention to extreme weather, and various regions of the country;

"(2) an evaluation of--

"(A) global and regional crude oil and refined product supplies;

"(B) the adequacy and utilization of refinery capacity;

"(C) the adequacy, utilization, and distribution of regional refined product storage capacity;

"(D) weather conditions;

1 "(E) the refined product transportation system;

2 "(F) market inefficiencies; and

3 "(G) any other factor affecting the functional capability of the heating oil

4 industry and propane industry that has the potential to affect national or

5 regional supplies and prices;

6 "(3) recommendations on steps that the Federal, State, and local governments can take

7 to prevent or alleviate the impact of sharp and sustained increases in the price of

8 natural gas, heating oil and propane; and

9 "(4) recommendations on steps that companies engaged in the production, refining,

10 storage, transportation of heating oil or propane, or any other activity related to the

11 heating oil industry or propane industry, can take to prevent or alleviate the impact of

12 sharp and sustained increases in the price of heating oil and propane.

13 "(c) INFORMATION REQUESTS- The Secretary may request information necessary to

14 prepare the Home Heating Readiness Report from companies described in subsection

15 (b)(4).".

16 (b) CONFORMING AND TECHNICAL AMENDMENTS- The Energy Policy and

17 Conservation Act is amended--

18 (1) in the table of contents in the first section (42 U.S.C. prec. 6201), by inserting

19 after the item relating to section 106 the following:

20 "Sec. 107. Major fuel burning stationary source.

21 "Sec. 108. Annual home heating readiness reports."; and

22 (2) in section 107 (42 U.S.C. 6215), by striking "SEC. 107. (a) No Governor" and

1 inserting the following:

2 **"SEC. 107. MAJOR FUEL BURNING STATIONARY SOURCE.**

3 "(a) No Governor".

5 **TITLE VII**

6 **NATIONAL OIL HEAT RESEARCH ALLIANCE ACT OF 1999**

7 **SEC. 701. SHORT TITLE.**

8 This title may be cited as the 'National Oilheat Research Alliance Act of 2000'.

9 **SEC. 702. FINDINGS.**

10 Congress finds that--

11 (1) oilheat is an important commodity relied on by approximately 30,000,000

12 Americans as an efficient and economical energy source for commercial and
13 residential space and hot water heating;

14 (2) oilheat equipment operates at efficiencies among the highest of any space heating
15 energy source, reducing fuel costs and making oilheat an economical means of space
16 heating;

17 (3) the production, distribution, and marketing of oilheat and oilheat equipment plays
18 a significant role in the economy of the United States, accounting for approximately
19 \$12,900,000,000 in expenditures annually and employing millions of Americans in all
20 aspects of the oilheat industry;

21 (4) only very limited Federal resources have been made available for oilheat research,
22 development, safety, training, and education efforts, to the detriment of both the

oilheat industry and its 30,000,000 consumers; and
(5) the cooperative development, self-financing, and implementation of a coordinated national oilheat industry program of research and development, training, and consumer education is necessary and important for the welfare of the oilheat industry, the general economy of the United States, and the millions of Americans that rely on oilheat for commercial and residential space and hot water heating.

SEC. 703. DEFINITIONS.

In this title:

(1) ALLIANCE- The term 'Alliance' means a national oilheat research alliance established under section 704.

(2) CONSUMER EDUCATION- The term 'consumer education' means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.

(3) EXCHANGE- The term 'exchange' means an agreement that--

(A) entitles each party or its customers to receive oilheat from the other party;
and

(B) requires only an insubstantial portion of the volumes involved in the exchange to be settled in cash or property other than the oilheat.

(4) INDUSTRY TRADE ASSOCIATION- The term 'industry trade association' means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of

1 that Code and is organized for the purpose of representing the oilheat industry.

2 (5) NO. 1 DISTILLATE- The term 'No. 1 distillate' means fuel oil classified as No. 1
3 distillate by the American Society for Testing and Materials.

4 (6) NO. 2 DYED DISTILLATE- The term 'No. 2 dyed distillate' means fuel oil
5 classified as No. 2 distillate by the American Society for Testing and Materials that is
6 indelibly dyed in accordance with regulations prescribed by the Secretary of the
7 Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986.

8 (7) OILHEAT- The term 'oilheat' means--

9 (A) No. 1 distillate; and

10 (B) No. 2 dyed distillate;

11 that is used as a fuel for nonindustrial commercial or residential space or hot water
12 heating.

13 (8) OILHEAT INDUSTRY-

14 (A) IN GENERAL- The term 'oilheat industry' means--

15 (i) persons in the production, transportation, or sale of oilheat; and

16 (ii) persons engaged in the manufacture or distribution of oilheat
17 utilization equipment.

18 (B) EXCLUSION- The term 'oilheat industry' does not include ultimate
19 consumers of oilheat.

20 (9) PUBLIC MEMBER- The term 'public member' means a member of the Alliance
21 described in section 705(c)(1)(F).

22 (10) QUALIFIED INDUSTRY ORGANIZATION- The term 'qualified industry

organization' means the National Association for Oilheat Research and Education or a successor organization.

(11) QUALIFIED STATE ASSOCIATION- The term 'qualified State association' means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

(12) RETAIL MARKETER- The term 'retail marketer' means a person engaged primarily in the sale of oilheat to ultimate consumers.

(13) SECRETARY- The term 'Secretary' means the Secretary of Energy.

(14) WHOLESALE DISTRIBUTOR- The term 'wholesale distributor' means a person that--

(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

(ii) imports No. 1 distillate or No. 2 dyed distillate; or

(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

(15) STATE- The term 'State' means the several States, except the State of Alaska.

SEC. 704. REFERENDA.

(a) CREATION OF PROGRAM-

(1) IN GENERAL- The oilheat industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale

distributors for the establishment of a national oilheat research alliance.

(2) REIMBURSEMENT OF COST- The Alliance, if established, shall reimburse the qualified industry organization for the cost of accounting and documentation for the referendum.

(3) CONDUCT- A referendum under paragraph (1) shall be conducted by an independent auditing firm.

(4) VOTING RIGHTS-

(A) RETAIL MARKETERS- Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

(B) WHOLESALE DISTRIBUTORS- Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume of No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS-

(A) IN GENERAL- Subject to subparagraph (B), on approval of persons representing two-thirds of the total volume of oilheat voted in the retail

1 marketer class and two-thirds of the total weighted volume of No. 1 distillate
2 and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance
3 shall be established and shall be authorized to levy assessments under section
4 107.

5 (B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS- Except
6 as provided in subsection (b), the oilheat industry in a State shall not
7 participate in the Alliance if less than 50 percent of the retail marketer vote in
8 the State approves establishment of the Alliance.

9 (6) CERTIFICATION OF VOLUMES- Each person voting in the referendum shall
10 certify to the independent auditing firm the volume of oilheat, No. 1 distillate, or No.
11 2 dyed distillate represented by the vote of the person.

12 (7) NOTIFICATION- Not later than 90 days after the date of enactment of this title, a
13 qualified State association may notify the qualified industry organization in writing
14 that a referendum under paragraph (1) will not be conducted in the State.

15 (b) SUBSEQUENT STATE PARTICIPATION- The oilheat industry in a State that has not
16 participated initially in the Alliance may subsequently elect to participate by conducting a
17 referendum under subsection (a).

18 (c) TERMINATION OR SUSPENSION-

19 (1) IN GENERAL- On the initiative of the Alliance or on petition to the Alliance by
20 retail marketers and wholesale distributors representing 25 percent of the volume of
21 oilheat or weighted No. 1 distillate and No. 2 dyed distillate in each class, the
22 Alliance shall, at its own expense, hold a referendum, to be conducted by an

1 independent auditing firm selected by the Alliance, to determine whether the oilheat
2 industry favors termination or suspension of the Alliance.

3 (2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND-

4 Termination or suspension shall not take effect unless termination or suspension is
5 approved by persons representing more than one-half of the total volume of oilheat
6 voted in the retail marketer class or more than one-half of the total volume of
7 weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor
8 class.

9 (3) TERMINATION BY A STATE - A state may elect to terminate participation by
10 notifying the Alliance that 50 percent of the oilheat volume in the state has voted in a
11 referendum to withdraw.

12 (d) CALCULATION OF OILHEAT SALES- For the purposes of this section and section
13 105, the volume of oilheat sold annually in a State shall be determined on the basis of
14 information provided by the Energy Information Administration with respect to a calendar
15 year or other representative period.

16 **SEC. 705. MEMBERSHIP.**

17 (a) SELECTION-

18 (1) IN GENERAL- Except as provided in subsection (c)(1)(C), the qualified industry
19 organization shall select members of the Alliance representing the oilheat industry in
20 a State from a list of nominees submitted by the qualified State association in the
21 State.

22 (2) VACANCIES- A vacancy in the Alliance shall be filled in the same manner as the

1 original selection.

2 (b) REPRESENTATION- In selecting members of the Alliance, the qualified industry
3 organization shall make best efforts to select members that are representative of the oilheat
4 industry, including representation of--

5 (1) interstate and intrastate operators among retail marketers;

6 (2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

7 (3) large and small companies among wholesale distributors and retail marketers; and

8 (4) diverse geographic regions of the country.

9 (c) NUMBER OF MEMBERS-

10 (1) IN GENERAL- The membership of the Alliance shall be as follows:

11 (A) One member representing each State with oilheat sales in excess of
12 32,000,000 gallons per year.

13 (B) If fewer than 24 States are represented under subparagraph (A), 1 member
14 representing each of the States with the highest volume of annual oilheat sales,
15 as necessary to cause the total number of States represented under
16 subparagraph (A) and this subparagraph to equal 24.

17 (C) 5 representatives of retail marketers, 1 each to be selected by the qualified
18 State associations of the 5 States with the highest volume of annual oilheat
19 sales.

20 (D) 5 additional representatives of retail marketers.

21 (E) 21 representatives of wholesale distributors.

22 (F) 6 public members, who shall be representatives of significant users of

oilheat, the oilheat research community, State energy officials, or other groups knowledgeable about oilheat.

(2) FULL-TIME OWNERS OR EMPLOYEES- Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.

(d) COMPENSATION- Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

(e) TERMS-

(1) IN GENERAL- Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years, except that a member filling an unexpired term may serve a total of 7 consecutive years.

(2) TERM LIMIT- A member may serve not more than 2 full consecutive terms.

(3) FORMER MEMBERS- A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

(4) INITIAL APPOINTMENTS- Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

1 **SEC. 706. FUNCTIONS.**

2 (a) IN GENERAL-

3 (1) PROGRAMS, PROJECTS; CONTRACTS AND OTHER AGREEMENTS- The
4 Alliance--

5 (A) shall develop programs and projects and enter into contracts or other
6 agreements with other persons and entities for implementing this title,
7 including programs--

8 (i) to enhance consumer and employee safety and training;

9 (ii) to provide for research, development, and demonstration of clean
10 and efficient oilheat utilization equipment; and

11 (iii) for consumer education; and

12 (B) may provide for the payment of the costs of carrying out subparagraph (A)
13 with assessments collected under section 707.

14 (2) COORDINATION- The Alliance shall coordinate its activities with industry trade
15 associations and other persons as appropriate to provide efficient delivery of services
16 and to avoid unnecessary duplication of activities.

17 (3) ACTIVITIES-

18 (A) EXCLUSIONS- Activities under clause (i) or (ii) of paragraph (1)(A)
19 shall not include advertising, promotions, or consumer surveys in support of
20 advertising or promotions.

21 (B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION
22 ACTIVITIES-

1 (i) IN GENERAL- Research, development, and demonstration
2 activities under paragraph (1)(A)(ii) shall include--

3 (I) all activities incidental to research, development, and
4 demonstration of clean and efficient oilheat utilization
5 equipment; and

6 (II) the obtaining of patents, including payment of attorney's
7 fees for making and perfecting a patent application.

8 (ii) EXCLUDED ACTIVITIES- Research, development, and
9 demonstration activities under paragraph (1)(A)(ii) shall not include
10 research, development, and demonstration of oilheat utilization
11 equipment with respect to which technically feasible and commercially
12 feasible operations have been verified, except that funds may be
13 provided for improvements to existing equipment until the technical
14 feasibility and commercial feasibility of the operation of those
15 improvements have been verified.

16 (b) PRIORITIES- In the development of programs and projects, the Alliance shall give
17 priority to issues relating to--

18 (1) research, development, and demonstration;

19 (2) safety;

20 (3) consumer education; and

21 (4) training.

22 (c) ADMINISTRATION-

1 (1) OFFICERS; COMMITTEES; BYLAWS- The Alliance--

2 (A) shall select from among its members a chairperson and other officers as
3 necessary;

4 (B) may establish and authorize committees and subcommittees of the
5 Alliance to take specific actions that the Alliance is authorized to take; and

6 (C) shall adopt bylaws for the conduct of business and the implementation of
7 this title.

8 (2) SOLICITATION OF OILHEAT INDUSTRY COMMENT AND

9 RECOMMENDATIONS- The Alliance shall establish procedures for the solicitation
10 of oilheat industry comment and recommendations on any significant contracts and
11 other agreements, programs, and projects to be funded by the Alliance.

12 (3) ADVISORY COMMITTEES- The Alliance may establish advisory committees
13 consisting of persons other than Alliance members.

14 (4) VOTING- Each member of the Alliance shall have 1 vote in matters before the
15 Alliance.

16 (d) ADMINISTRATIVE EXPENSES-

17 (1) IN GENERAL- The administrative expenses of operating the Alliance (not
18 including costs incurred in the collection of assessments under section 707) plus
19 amounts paid under paragraph (2) shall not exceed 7 percent of the amount of
20 assessments collected in any calendar year, except that during the first year of
21 operation of the Alliance such expenses and amounts shall not exceed 10 percent of
22 the amount of assessments.

1 (2) REIMBURSEMENT OF THE SECRETARY-

2 (A) IN GENERAL- The Alliance shall annually reimburse the Secretary for
3 costs incurred by the Federal Government relating to the Alliance.

4 (B) LIMITATION- Reimbursement under subparagraph (A) for any calendar
5 year shall not exceed the amount that the Secretary determines is twice the
6 average annual salary of 1 employee of the Department of Energy.

7 (e) BUDGET-

8 (1) PUBLICATION OF PROPOSED BUDGET- Before August 1 of each year, the
9 Alliance shall publish for public review and comment a proposed budget for the next
10 calendar year, including the probable costs of all programs, projects, and contracts
11 and other agreements.

12 (2) SUBMISSION TO THE SECRETARY AND CONGRESS- After review and
13 comment under paragraph (1), the Alliance shall submit the proposed budget to the
14 Secretary and Congress.

15 (3) RECOMMENDATIONS BY THE SECRETARY- The Secretary may recommend
16 for inclusion in the budget programs and activities that the Secretary considers
17 appropriate.

18 (4) IMPLEMENTATION- The Alliance shall not implement a proposed budget until
19 the expiration of 60 days after submitting the proposed budget to the Secretary.

20 (f) RECORDS; AUDITS-

21 (1) RECORDS- The Alliance shall--

22 (A) keep records that clearly reflect all of the acts and transactions of the

1 Alliance; and

2 (B) make the records available to the public.

3 (2) AUDITS-

4 (A) IN GENERAL- The records of the Alliance (including fee assessment
5 reports and applications for refunds under section 707(b)(4)) shall be audited
6 by a certified public accountant at least once each year and at such other times
7 as the Alliance may designate.

8 (B) AVAILABILITY OF AUDIT REPORTS- Copies of each audit report
9 shall be provided to the Secretary, the members of the Alliance, and the
10 qualified industry organization, and, on request, to other members of the
11 oilheat industry.

12 (C) POLICIES AND PROCEDURES-

13 (i) IN GENERAL- The Alliance shall establish policies and procedures
14 for auditing compliance with this title.

15 (ii) CONFORMITY WITH GAAP- The policies and procedures
16 established under clause (i) shall conform with generally accepted
17 accounting principles.

18 (g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS-

19 (1) PUBLIC NOTICE- The Alliance shall give at least 30 days' public notice of each
20 meeting of the Alliance.

21 (2) MEETINGS OPEN TO THE PUBLIC- Each meeting of the Alliance shall be
22 open to the public.

1 (3) MINUTES- The minutes of each meeting of the Alliance shall be made available
2 to and readily accessible by the public.

3 (h) ANNUAL REPORT- Each year the Alliance shall prepare and make publicly available a
4 report that--

5 (1) includes a description of all programs, projects, and contracts and other
6 agreements undertaken by the Alliance during the previous year and those planned for
7 the current year; and

8 (2) details the allocation of Alliance resources for each such program and project.

9 **SEC. 707. ASSESSMENTS.**

10 (a) RATE- The assessment rate shall be equal to two-tenths-cent per gallon of No. 1 distillate
11 and No. 2 dyed distillate.

12 (b) COLLECTION RULES-

13 (1) COLLECTION AT POINT OF SALE- The assessment shall be collected at the
14 point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a
15 person other than a wholesale distributor, including a sale made pursuant to an
16 exchange.

17 (2) RESPONSIBILITY FOR PAYMENT- A wholesale distributor--

18 (A) shall be responsible for payment of an assessment to the Alliance on a
19 quarterly basis; and

20 (B) shall provide to the Alliance certification of the volume of fuel sold.

21 (3) NO OWNERSHIP INTEREST- A person that has no ownership interest in No. 1
22 distillate or No. 2 dyed distillate shall not be responsible for payment of an

1 assessment under this section.

2 (4) FAILURE TO RECEIVE PAYMENT-

3 (A) REFUND- A wholesale distributor that does not receive payments from a
4 purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date
5 of sale may apply for a refund from the Alliance of the assessment paid.

6 (B) AMOUNT- The amount of a refund shall not exceed the amount of the
7 assessment levied on the No. 1 distillate or No. 2 dyed distillate for which
8 payment was not received.

9 (5) IMPORTATION AFTER POINT OF SALE- The owner of No. 1 distillate or No.
10 2 dyed distillate imported after the point of sale--

11 (A) shall be responsible for payment of the assessment to the Alliance at the
12 point at which the product enters the United States; and

13 (B) shall provide to the Alliance certification of the volume of fuel imported.

14 (6) LATE PAYMENT CHARGE- The Alliance may establish a late payment charge
15 and rate of interest to be imposed on any person who fails to remit or pay to the
16 Alliance any amount due under this title.

17 (7) ALTERNATIVE COLLECTION RULES- The Alliance may establish, or approve
18 a request of the oilheat industry in a State for, an alternative means of collecting the
19 assessment if another means is determined to be more efficient or more effective.

20 (c) SALE FOR USE OTHER THAN AS OILHEAT- No. 1 distillate and No. 2 dyed distillate
21 sold for uses other than as oilheat are excluded from the assessment.

22 (d) INVESTMENT OF FUNDS- Pending disbursement under a program, project, or contract

1 or other agreement the Alliance may invest funds collected through assessments, and any
2 other funds received by the Alliance, only--

- 3 (1) in obligations of the United States or any agency of the United States;
- 4 (2) in general obligations of any State or any political subdivision of a State;
- 5 (3) in any interest-bearing account or certificate of deposit of a bank that is a member
- 6 of the Federal Reserve System; or
- 7 (4) in obligations fully guaranteed as to principal and interest by the United States.

8 (e) STATE, LOCAL, AND REGIONAL PROGRAMS-

9 (1) COORDINATION- The Alliance shall establish a program coordinating the
10 operation of the Alliance with the operator of any similar State, local, or regional
11 program created under State law (including a regulation), or similar entity.

12 (2) FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS-

13 (A) IN GENERAL-

14 (i) BASE AMOUNT- The Alliance shall make available to the
15 qualified State association of each State an amount equal to 15 percent
16 of the amount of assessments collected in the State.

17 (ii) ADDITIONAL AMOUNT-

18 (I) IN GENERAL- A qualified State association may request
19 that the Alliance provide to the association any portion of the
20 remaining 85 percent of the amount of assessments collected in
21 the State.

22 (II) REQUEST REQUIREMENTS- A request under this clause

1 shall--

2 (aa) specify the amount of funds requested;

3 (bb) describe in detail the specific uses for which the requested funds are sought;

4 (cc) include a commitment to comply with this title in using the requested funds; and

5 (dd) be made publicly available.

6 (III) DIRECT BENEFIT- The Alliance shall not provide any
7 funds in response to a request under this clause unless the
8 Alliance determines that the funds will be used to directly
9 benefit the oilheat industry.

10 (IV) MONITORING; TERMS, CONDITIONS, AND
11 REPORTING REQUIREMENTS- The Alliance shall--

12 (aa) monitor the use of funds provided under this clause; and

13 (bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers
14 necessary to ensure compliance with this title.

15 **SEC. 708. MARKET SURVEY AND CONSUMER PROTECTION.**

16 (a) PRICE ANALYSIS- Beginning 2 years after establishment of the Alliance and annually
17 thereafter, the Secretary of Commerce, using only data provided by the Energy Information
18 Administration and other public sources, shall prepare and make available to the Congress,
19 the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of
20 oilheat relative to other energy sources. The oilheat price analysis shall compare indexed
21 changes in the price of consumer grade oilheat to a composite of indexed changes in the price
22 of residential electricity, residential natural gas, and propane on an annual national average

1 basis. For purposes of indexing changes in oilheat, residential electricity, residential natural
2 gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price
3 beginning with the year 4 years prior to the establishment of the Alliance.

4 (b) AUTHORITY TO RESTRICT ACTIVITIES- If in any year the 5-year average price
5 composite index of consumer grade oilheat exceeds the 5-year rolling average price
6 composite index of residential electricity, residential natural gas, and propane in an amount
7 greater than 10.1 percent, the activities of the Alliance shall be restricted to research and
8 development, training, and safety matters. The Alliance shall inform the Secretary of Energy
9 and the Congress of any restriction of activities under this subsection. Upon expiration of 180
10 days after the beginning of any such restriction of activities, the Secretary of Commerce shall
11 again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance
12 shall continue to be restricted under this subsection until the price index excess is 10.1
13 percent or less.

14 **SEC. 709. COMPLIANCE.**

15 (a) IN GENERAL- The Alliance may bring a civil action in United States district court to
16 compel payment of an assessment under section 707.

17 (b) COSTS- A successful action for compliance under this section may also require payment
18 by the defendant of the costs incurred by the Alliance in bringing the action.

19 **SEC. 710. LOBBYING RESTRICTIONS.**

20 No funds derived from assessments under section 707 collected by the Alliance shall be used
21 to influence legislation or elections, except that the Alliance may use such funds to formulate
22 and submit to the Secretary recommendations for amendments to this title or other laws that

would further the purposes of this title.

SEC. 711. DISCLOSURE.

Any consumer education activity undertaken with funds provided by the Alliance shall include a statement that the activities were supported, in whole or in part, by the Alliance.

SEC. 712. VIOLATIONS.

(a) PROHIBITION- It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 707, that includes--

- (1) a reference to a private brand name;
- (2) a false or unwarranted claim on behalf of oilheat or related products; or
- (3) a reference with respect to the attributes or use of any competing product.

(b) COMPLAINTS-

(1) IN GENERAL- A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION- A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

(3) CESSATION OF ACTIVITIES- On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made, shall cease that consumer education activity until--

- (A) the complaint is withdrawn; or

1 (B) a court determines that the conduct of the activity complained of does not
2 constitute a violation of subsection (a).

3 (c) RESOLUTION BY PARTIES-

4 (1) IN GENERAL- Not later than 10 days after a complaint is filed and transmitted
5 under subsection (b), the complaining party, the Alliance, and any qualified State
6 association undertaking the consumer education activity with respect to which the
7 complaint is made shall meet to attempt to resolve the complaint.

8 (2) WITHDRAWAL OF COMPLAINT- If the issues in dispute are resolved in those
9 discussions, the complaining party shall withdraw its complaint.

10 (d) JUDICIAL REVIEW-

11 (1) IN GENERAL- A public utility filing a complaint under this section, the Alliance,
12 a qualified State association undertaking the consumer education activity with respect
13 to which a complaint under this section is made, or any person aggrieved by a
14 violation of subsection (a) may seek appropriate relief in United States district court.

15 (2) RELIEF- A public utility filing a complaint under this section shall be entitled to
16 temporary and injunctive relief enjoining the consumer education activity with respect
17 to which a complaint under this section is made until--

18 (A) the complaint is withdrawn; or

19 (B) the court has determined that the consumer education activity complained
20 of does not constitute a violation of subsection (a).

21 (e) ATTORNEY'S FEES-

22 (1) MERITORIOUS CASE- In a case in Federal court in which the court grants a

1 public utility injunctive relief under subsection (d), the public utility shall be entitled
2 to recover an attorney's fee from the Alliance and any qualified State association
3 undertaking the consumer education activity with respect to which a complaint under
4 this section is made.

5 (2) NONMERITORIOUS CASE- In any case under subsection (d) in which the court
6 determines a complaint under subsection (b) to be frivolous and without merit, the
7 prevailing party shall be entitled to recover an attorney's fee.

8 (f) SAVINGS CLAUSE- Nothing in this section shall limit causes of action brought under
9 any other law.

10 **SEC. 713. SUNSET.**

11 This title shall cease to be effective as of the date that is 4 years after the date on which the
12 Alliance is established.